



CITY OF DESERT HOT SPRINGS

**REGULAR MEETING OF THE CITY COUNCIL
And the City Council Serving as the Successor Agency to the
Redevelopment Agency Board**

ACTION MINUTES - CORRECTED

SEPTEMBER 3, 2019

5:00 P.M. – CLOSED SESSION

6:00 P.M. – REGULAR SESSION

**CITY COUNCIL CHAMBERS
Carl May Community Center
11711 West Drive, Desert Hot Springs, California**

CLOSED SESSION - 5:00 P.M.

CALL TO ORDER

Mayor Matas called the Closed Session to order at 5:03 P.M.

ROLL CALL

Present:

Council Members: Russell Betts, Gary Gardner, Robert Griffith

Mayor Pro Tem: Jan Pye

Mayor: Scott Matas

PUBLIC COMMENTS

There were no public comments.

Jennifer Mizrahi, City Attorney, requested that Item 1 be withdrawn from the Closed Session agenda; and requested the addition of 2 urgency items regarding: 1) existing litigation (Garcia v. City of Desert Hot Springs, Case No. PSC1807458); and 2) anticipated litigation (no formal claim has been made).

Action: Gardner moved to approve the addition of 2 urgency closed session items with the findings that the matters came to the attention of the City subsequent to the posting of the agenda, and that there was an urgent need to discuss the matters, motion seconded by Griffith, motion carried 5/0 by the following vote:

Vote: AYES: 5 - Betts, Matas, Pye, Gardner, Griffith
Passed NOES: 0 - (None)

CLOSED SESSION:

1. **CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION**
(Paragraph (1) of subdivision (d) of Section 54956.9)
Name of case: Sungrow Consulting v. City of Desert Hot Springs, et al.
Riverside County Superior Court Case No. PSC1800747
2. **CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION**
(Paragraph (1) of subdivision (d) of Section 54956.9)
Name of case: Garcia v. City of Desert Hot Springs, et al. (Best Development Group, LLC as Real Party in Interest)
Riverside County Superior Court Case No. RIC1903260
3. **CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION**
(Paragraph (1) of subdivision (d) of Section 54956.9)
In the Matter of the Administration of the D.H.S. Drugs, Inc. Profit Sharing Plan
Riverside Superior Court Case No. PRIN1801126
4. **CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION**
Potential Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: One Potential Case

REGULAR SESSION - 6:00 P.M.

CALL TO ORDER

Mayor Matas called the Regular Session to order at 6:20 P.M.

ROLL CALL

Present:
Council Members: Russell Betts, Gary Gardner, Robert Griffith
Mayor Pro Tem: Jan Pye
Mayor: Scott Matas

INVOCATION

None.

PLEDGE OF ALLEGIANCE

Council Member Griffith led the Pledge of Allegiance.

CITY ATTORNEY REPORT ON CLOSED SESSION

Jennifer Mizrahi, City Attorney, advised that the City Council approved a Settlement Agreement in Closed Session regarding Garcia v. City of Desert Hot Springs (Case No. PSC1807458) by a vote of 4-1 (Council Member Betts dissenting).

Council Member Betts stated that he had recused from a Closed Session item regarding anticipated litigation due to a potential conflict of interest (owns real property within 500 feet).

APPROVAL OF THE AGENDA

Action: Gardner moved to approve the September 3, 2019 Regular Meeting agenda; and approve the Consent Calendar in its entirety (with a correction to Item 13 - June 25, 2019 Special Meeting Minutes), motion seconded by Betts, motion carried 5/0 by the following vote:

Vote: AYES: 5 - Betts, Matas, Pye, Gardner, Griffith
Passed NOES: 0 - (None)

PUBLIC COMMENTS

Eddie Johnson spoke regarding the Veterans Day event date set by the Community and Cultural Affairs Commission (CCAC).

Bill Hawkins spoke regarding the Veterans Day event date set by CCAC.

Frank Gillete spoke regarding the Veterans Day event date set by CCAC.

Donn Sholty spoke regarding Engineer's reports.

Patrick Poupart commended the City Council.

Marc Nolasco spoke regarding the Veterans Day event date set by CCAC.

Judy Shea spoke regarding the Veterans Day event date set by CCAC.

Pamela Berry spoke regarding the Veterans Day event date set by CCAC.

Cliff Lavy commended Council Member Gardner for representing the City.

City staff members: Lynne Paul, Melissa Purcell, Patricia Villagomez, Colleen Michael, and Angelica Villalobos, spoke regarding the upcoming "LEAD Meet the City" community event.

CITY MANAGER REPORT

Danny Porras, Public Works Director, gave updates regarding the safety improvement projects along Palm Drive; and the New City Hall project.

MAYOR AND COUNCIL MEMBER REPORTS

Council Member Gardner reported on the various meetings and events he attended.

Council Member Betts reported on the various meetings and events he attended.

Council Member Griffith reported on the various meetings and events he attended.

~~Mayor Pro Tem Pye reported on the various meetings and events she attended.~~

Mayor Matas reported on the various meetings and events he attended.

PUBLIC HEARINGS:

5. [An Urgency Interim Ordinance Adopting a Moratorium on the Establishment of Any Marijuana Facility, or Any Use or Activity Related Thereto, for Properties Located in the Downtown Area near City Hall, Specifically on Pierson Boulevard between Cactus Drive and Mesquite Avenue, on Palm Drive between Acoma and 1st Street, on 1st Street between Cactus Drive and Mesquite Avenue, and on Acoma Avenue between Cactus Drive and Palm Drive](#)

Community Development Director, Rebecca Deming

Recommendation:

- 1) Staff Report;
- 2) Entertain Questions of Staff from City Council;
- 3) Open the Public Hearing;
- 4) Take Public Testimony from those in favor;
- 5) Take Public Testimony from those opposed;
- 6) Take Public Testimony from those in a neutral position;
- 7) Close the Public Hearing;
- 8) City Council discussion and questions to Staff; and
- 9) Adopt an Urgency Interim Ordinance of the City Council of the City of Desert Hot Springs Adopting a Moratorium on the Establishment of Any Marijuana Facility, as Defined in Chapter 17.180 of the Desert Hot Springs Municipal Code, or Any Use or Activity Related Thereto, for Properties Located in the Downtown Area near City Hall, Specifically on Pierson Boulevard between Cactus Drive and Mesquite Avenue, on Palm Drive between Acoma and 1st Street, on 1st Street between Cactus Drive and Mesquite Avenue, and on Acoma Avenue between Cactus Drive and Palm Drive.

Council Member Betts recused due to a potential conflict of interest (owns real property within 500 feet).

Rebecca Deming, Community Development Director, presented the staff report.

Jennifer Mizrahi, City Attorney, suggested the addition of a clause that the ordinance shall not affect current existing approved entitlements or existing operations located in the subject area.

Mayor Matas opened the Public Hearing.

Donna Wardean spoke in favor.

Donn Sholty spoke in favor.

Jocelyn Kane, CVCAN, spoke opposed.

Nancy Brown spoke opposed.

Janice Gough spoke opposed.

Steve Giboney spoke opposed.

Stephanie Bodde spoke opposed.

Joe McKee spoke in a neutral position.

Mayor Matas closed the Public Hearing.

A discussion ensued.

Action: Gardner moved to approve staff recommendation and adopt *Ordinance No. 689*; adding clause that the ordinance shall not affect current existing approved entitlements or existing operations located in the Subject Area from expanding their businesses to adjacent properties, and excepting APN 639-293-029 (Bodde's project), motion seconded by Griffith, motion carried / by the following vote:

Vote: AYES: 4 - Matas, Pye, Gardner, Griffith
Passed NOES: 0 - (None)

The City Council recessed at 8:27 P.M.

The City Council reconvened at 8:36 P.M.

ADMINISTRATIVE CALENDAR:

- 6. [Harborside Water Tower Mural](#)
*Assistant City Manager, Doria Wilms***

Recommendation: Approve the below recommendations from the Community and Cultural Affairs Commission to allow for the Installation of a Painted Mural on an existing Water Tower located on the Harborside Project Site (Palm Drive and I-10 Freeway):

- 1) Apply \$2625.00 of AIPP contributions previously paid by the Harborside Project toward the installation of a painted mural on an existing Water Tower at the Harborside Project site.
- 2) Approve the utilization of additional AIPP Funds in the amount of \$21,194.40, which includes \$19,029.00, for the remaining costs of the mural once the applicants original AIPP contribution of \$2625.00 are applied to the total project cost of \$21,654.00, as well as a standard 10% project contingency in the amount of \$2165.40.
- 3) Recommendation to allow for the installation of the mural in lieu of the previously conditioned landscaping surrounding the perimeter of the Water Tower structure.

Doria Wilms, Assistant City Manager, presented the staff report.

(Name inaudible), Harborside Project, requested the opportunity to provide input on the mural design.

Christian Chavez, Harborside Project, requested the opportunity to provide input on the mural design.

Donn Sholty spoke regarding visibility of the mural due to the height of the water tank.

Mike Picardi, Community and Cultural Affairs Commission (CCAC) Chair, provided background and requested the City Council's approval.

Janice Gough spoke opposed.

Donna Wardean, CCAC Commissioner, requested the City Council's approval.

A discussion ensued.

Action: Betts moved to approve staff recommendation with direction that the font shall be same as the original design, motion seconded by Griffith, motion carried 5/0 by the following vote:

Vote: AYES: 5 - Betts, Matas, Pye, Gardner, Griffith
Passed NOES: 0 - (None)

7. [Appointment to the Planning Commission to Fill Vacancy for Unexpired Term](#)
City Clerk, Jerry Soriano, CMC

Recommendation: Ratify Council Member Griffith's appointment to the Planning Commission to fill one (1) vacancy consisting of an unexpired term ending January 2020.

Jerryl Soriano, City Clerk, presented the staff report.

Action: Griffith moved to ratify Council Member Griffith's appointment of Agustin Aragon to the Planning Commission, motion seconded by Pye, motion carried 5/0 by the following vote:

Vote: AYES: 5 - Betts, Matas, Pye, Gardner, Griffith
Passed NOES: 0 - (None)

8. **Year-End Budget Adjustments for the Fiscal Year 2018-2019**

Acting Finance Director, Geoffrey Buchheim

Recommendation: Approve year-end budget adjustments for Fiscal Year 2018-2019.

Geoffrey Buchheim, Finance Director, presented the staff report and responded to questions.

Action: Pye moved to approve staff recommendation, motion seconded by Gardner, motion carried 5/0 by the following vote:

Vote: AYES: 5 - Betts, Matas, Pye, Gardner, Griffith
Passed NOES: 0 - (None)

9. **Placement of a \$3 Million Cap on the Emergency Reserve Fund**

Acting Finance Director, Geoffrey Buchheim

Recommendation: Adopt a Resolution of the City Council placing a \$3 million cap on the Emergency Reserve Fund funded by marijuana tax revenues.

Geoffrey Buchheim, Finance Director, presented the staff report.

Joe McKee expressed concerns.

Steve Giboney expressed concerns.

Janice Gough expressed concerns.

A discussion ensued.

Action: Gardner moved to approve staff recommendation and adopt *Resolution No. 2019-039* amended to cap the Marijuana Reserve Fund at 17% of annual budget, motion seconded by Pye, motion carried / by the following vote:

Vote: AYES: 4 - Matas, Pye, Gardner, Griffith
Passed NOES: 1 - Betts

10. [An Ordinance Amending Chapter 3.44 \(Purchasing\) of the Desert Hot Springs Municipal Code, Clarifying and Amending Procurement Procedures; and Amending Chapter 3.45 \(Public Works Projects\), Increasing Competitive Bidding Threshold Amounts in Accordance With State Law](#)

Deputy City Manager, Luke Rainey

Recommendation: 1) Approve for First Reading and read by title only: "An Ordinance of the City Council of the City of Desert Hot Springs, California, amending Chapter 3.44 (Purchasing) of the Desert Hot Springs Municipal Code, clarifying and amending procurement procedures; and amending Chapter 3.45 (Public Works Projects), increasing competitive bidding threshold amounts in accordance with State law; and
2) Adopt a Resolution of the City Council repealing Resolution No. 2009-016 (which would take effect upon the effective date of the proposed Ordinance).

Luke Rainey, Deputy City Manager, presented the staff report.

Jennifer Mizrahi, City Attorney, presented the staff report.

Betts moved to continue the item. The motion failed for lack of a second.

Betts moved to deny. The motion failed for lack of a second.

Action: Gardner moved to approve staff recommendation and adopt *Resolution No. 2019-040*, motion seconded by Pye, motion carried / by the following vote:

As an amended motion, Betts moved to approve staff recommendation and to keep City Council's ability to reject and re-advertise all bids. The motion failed for lack of a second.

Jennifer Mizrahi, City Attorney, stated that the provisions indicated by Council Member Betts were already included in the ordinance.

Vote: AYES: 4 - Matas, Pye, Gardner, Griffith
Passed NOES: 1 - Betts

11. [2019-2020 Reimbursement Agreement with Palm Springs Unified School District for School Resource Officer \(SRO\) Services at Desert Hot Springs High School](#)

Acting Police Chief, Jim Henson

Recommendation: Authorize the City Manager to enter into a Reimbursement Agreement, subject to approval as to form by the City Attorney, with the Palm Springs Unified School District for the City to provide a School Resource Officer for the Desert Hot Springs High School in exchange for a reimbursement from the District to the City of an amount not to exceed \$128,525.00.

Action: Betts moved to approve staff recommendation, motion seconded by Gardner, motion carried 5/0 by the following vote:

Vote: AYES: 5 - Betts, Matas, Pye, Gardner, Griffith
Passed NOES: 0 - (None)

12. [Designation of Voting Delegate and Alternate\(s\) for the 2019 League of California Cities Annual Conference in Long Beach, California](#)

City Clerk, Jerryl Soriano, CMC

Recommendation: Appoint a voting delegate and up to two (2) alternates for the 2019 League of California Cities Annual Conference in Long Beach, California.

Action: Gardner moved to appoint Council Member Betts as the Voting Delegate, and Council Members Pye and Gardner as the Alternates, motion seconded by Betts, motion carried 5/0 by the following vote:

Vote: AYES: 5 - Betts, Matas, Pye, Gardner, Griffith
Passed NOES: 0 - (None)

CONSENT CALENDAR:

13. [City Council Special Meeting Minutes: June 25, 2019](#)

City Council Regular Meeting Minutes: July 2, 2019

City Clerk, Jerryl Soriano, CMC

Recommendation: Approve the Minutes as submitted; or as corrected.

The June 25, 2019 Special Meeting Minutes were approved as corrected.

Council Member Griffith abstained from approval of the June 25, 2019 Special Meeting Minutes.

14. [Second Reading and Adoption of an Ordinance Amending Chapter 5.52 Permitting and Regulating Mobile Food Vending Vehicles, Amending Chapter 17.136 Temporary Use Permits, and Adding Section 17.12.390 Mobile Food Vending Vehicle Parks of the Desert Hot Springs Municipal Code](#)

Community Development Director, Rebecca Deming

Recommendation: Approve Second Reading, read by title and adopt: "An Ordinance of the City Council of the City of Desert Hot Springs, amending Chapter 5.52 Permitting and Regulating Mobile Food Vending Vehicles, amending Chapter 17.136 Temporary Use Permits and adding Section 7.12.390 Mobile Food Vending Vehicle Parks, of the Desert Hot Springs Municipal Code.

Ordinance No. 690

15. [Mayor's Appointments to Various Intergovernmental Boards and Committees](#)
City Clerk, Jerryl Soriano, CMC
Recommendation: Ratify Mayor Matas' appointments to the various intergovernmental Boards and Committees.
16. [Payment Register and City Council Expenditures Report for the Month of June 2019](#)
Acting Finance Director, Geoffrey Buchheim
Recommendation: Receive and file.
17. [Payment Register and City Council Expenditures Report for the Month of July 2019](#)
Acting Finance Director, Geoffrey Buchheim
Recommendation: Receive and file.
18. [Treasurer's Report for the Month of June 2019](#)
Acting Finance Director, Geoffrey Buchheim
Recommendation: Receive and file.
19. [Treasurer's Report for the Month of July 2019](#)
Acting Finance Director, Geoffrey Buchheim
Recommendation: Receive and file.

[PUBLIC COMMENTS](#)

None.

[ADJOURN](#)

Mayor Matas adjourned the meeting at 9:42 P.M.



Jerryl Soriano, CMC, City Clerk